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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

COMMISSIONERS

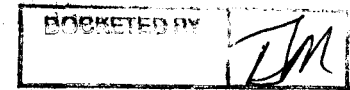
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DOCKETED

MAR 28 2013

BOB STUMP, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

AZ CORP COMMISSION  
DOCKET CONTROL



IN THE MATTER OF THE APPLICATION OF  
DII-EMERALD SPRINGS, L.L.C. FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WASTEWATER  
SERVICES.

DOCKET NO. WS-20794A-11-0140

IN THE MATTER OF THE APPLICATION OF  
DII-EMERALD SPRINGS, L.L.C. FOR  
APPROVAL OF RATES.

DOCKET NO. WS-20794A-11-0279

IN THE MATTER OF THE APPLICATION OF  
DOYLE THOMPSON FOR APPROVAL OF A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE SEWER SERVICES.

DOCKET NO. <sup>SW</sup> ~~WS~~-20851A-12-0226

**ARIZONA DEPARTMENT OF  
ENVIRONMENTAL QUALITY'S  
MOTION TO LIMIT SCOPE OF  
SUPBOENA**

The Arizona Department of Environmental Quality ("ADEQ") moves to limit the scope of the Arizona Corporation Commission's Administrative Subpoena Duces Tecum ("Subpoena") issued on March 12, 2013 after DII-Emerald Springs, LLC, filed the March 12, 2012 Application for Administrative Subpoena Duces Tecum. The ADEQ moves to limit the scope of the Subpoena for the following reasons:

1. The description of documents requested is both vague and over broad. For instance, the Subpoena fails to state a timeframe, and the subpoena refers to "violations" but offers no details or descriptions of the violations.
2. The request creates an unreasonable burden on ADEQ as well as the parties because the scope of the document request is so broad. As a result, ADEQ may have to bring all of its records and files to the hearing, which will prolong the hearing.

1           3.       Finally, based on discussions and an agreement between the applicant for the  
2 subpoena, DII-Emerald Springs, LLC, and ADEQ, DII-Emerald Springs has agreed to limit the scope  
3 of the subpoena to the following documents:

4                   All notes, email, correspondence, and other records memorializing  
5                   communications and meetings between Henry Melendez, PhD, DII-  
6                   Emerald Springs, LLC, and three ADEQ employees – Bob Manley, Asif  
7                   Majeed, and Linda Taunt – in 2009 through to the present, relating to DII-  
8                   Emerald Springs, LLC's water quality permits that were issued by ADEQ.

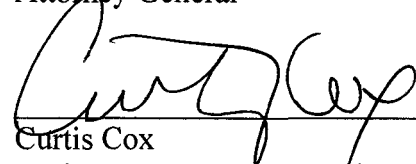
9                   (Attachment 1.)

10                  Therefore, ADEQ requests that the Arizona Corporation Commission amend the scope of the  
11 Subpoena to command ADEQ to bring and produce for inspection and copying the following:

12                   All notes, email, correspondence, and other records memorializing  
13                   communications and meetings between Henry Melendez, PhD, DII-  
14                   Emerald Springs, LLC, and three ADEQ employees – Bob Manley, Asif  
15                   Majeed, and Linda Taunt – in 2009 through to the present, relating to DII-  
16                   Emerald Springs, LLC's water quality permits that were issued by ADEQ.

17                  Respectfully requested this 28<sup>th</sup> day of March, 2013.

18                                   THOMAS C. HORNE  
19                                   Attorney General

20                                   

21                                   Curtis Cox  
22                                   Assistant Attorney General  
23                                   Attorney General's Office  
24                                   1275 W. Washington Street  
25                                   Phoenix, AZ 85007  
26                                   Curtis.cox@azag.gov  
27                                   (602) 542-7781  
28                                   Attorney for Arizona Department of  
                                     Environmental Quality

29                  Copies of the foregoing mailed/delivered/e-mailed  
30 this 28<sup>th</sup> day of March, 2013 to:

1 Henry Melendez

2 DII-EMERALD SPRINGS, L.L.C.

3 212 East Rowland Street, No. 423

4 Covina, CA 91723-3146

5 diigroup@aol.com

6 Julie A. LaBenz

7 LAW OFFICE OF JOHN C. CHURCHILL

8 1300 Joshua Avenue, Ste. B

9 Parker, AZ 85344

10 jlabenz@johnccchurchill.com

11 Attorney for Emerald Springs HOA

12 Steve Wene

13 MOYES SELLERS & HENDRICKS

14 1850 North Central Avenue, Ste. 1100

15 Phoenix, AZ 85004

16 swene@law-msh.com

17 Attorney for Robhana, Inc. and Charles Dunn Capital, Inc.

18 Doyle R. Thompson

19 COPPER STATE GAME CLUB, R.V.

20 AND MOBILE HOME PARK

21 P.O. Box 287

22 Ehrenberg, AZ 85334

23 dcopperstate@hotmail.com

24 Janice Alward, Chief Counsel

25 Legal Division

26 ARIZONA CORPORATION COMMISSION

27 1200 West Washington Street

28 Phoenix, AZ 85007

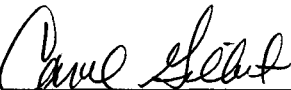
29 Steven M. Olea, Director

30 Utilities Division

31 ARIZONA CORPORATION COMMISSION

32 1200 West Washington Street

33 Phoenix, AZ 85007

34 By 

35 3204810/cg

# **Attachment 1**

## Cox, Curtis

---

**From:** Henry Melendez [diigroup@aol.com]  
**Sent:** Tuesday, March 26, 2013 5:33 PM  
**To:** Cox, Curtis  
**Subject:** Re: ACC docket no. 11-0140, DII-merald Springs, LLC: subpoena to Linda Taunt, ADEQ  
**Attachments:** ADEQ-Telelog\_about\_a\_meeting\_8-24-09.doc

Hi Mr. Curtis;

I am in agreement to your understanding in narrowing my request to the items described in your email below...

Our goal is to show ACC that DII has been in communication with ADEQ through out the years...and DII has been concern about the ability to comply with certain conditions that are impossible to this community due to the uniqueness and distance from Phoenix since before the issuance of the permit... and DII has not been careless nor has disregarded the conditions... etc..etc..

Attached is the document received from Robert Manley after a meeting...

If additional information is needed from me. please let me know...

Thank you very much for contacting me and clarifying my request...

Sincerely;

Henry Melendez  
Tel: 626-664-0602  
Fax: 626-529-1573

-----Original Message-----

**From:** Cox, Curtis <Curtis.Cox@azag.gov>  
**To:** 'Diigroup@aol.com' <Diigroup@aol.com>  
**Sent:** Tue, Mar 26, 2013 5:08 pm  
**Subject:** ACC docket no. 11-0140, DII-merald Springs, LLC: subpoena to Linda Taunt, ADEQ

Dear Mr. Melendez:

As discussed today by phone, I represent the Arizona Department of Environmental Quality ("ADEQ"), which is attempting to respond to the Arizona Corporation Commission ("ACC") subpoena duces tecum issued at your request to Linda Taunt, Deputy Director, Water Quality Division, ADEQ. Based on our discussion, it is our understanding that you are willing to narrow your request and are now seeking and requesting that ADEQ bring only the following documents in response to the subpoena duces tecum:

All notes, email, correspondence, and other records memorializing communications and meetings between Henry Melendez, PhD, DII-Emerald Springs, LLC, and three ADEQ employees – Bob Manley, Asif Majeed, and Linda Taunt – in 2009 through to the present, relating to DII-Emerald Springs, LLC's water quality permits that were issued by ADEQ.

Also, it is our understanding that you are specifically requesting that ADEQ include a "log" prepared by Bob Manley, ADEQ, for a meeting that occurred between DII-Emerald Springs, LLC, and ADEQ in 2009. Further, you have and will provide a copy of the duplicated pages of the log that you received from ADEQ after the meeting. Providing this copy will assist ADEQ in locating the log in the ADEQ files.

•  
Please respond with your agreement that the above described documents will meet the documents you described in the subpoena duces tecum that was issued by the ACC at your request. And please provide a copy of the log pages as described above.

Once we have your written (email) response in agreement, ADEQ will focus on locating the specific documents.

Thank you for your assistance with this matter. Please feel free to call me if you have questions or if you want to further discuss this matter.

Curtis Cox  
Assistant Attorney General  
Environmental Enforcement Section  
Arizona Attorney General's Office  
1275 West Washington  
Phoenix, AZ 85007  
(602) 542-7781 Phone  
(602) 542-7798 Fax  
[curtis.cox@azag.gov](mailto:curtis.cox@azag.gov)

# TELELOG

Emerald Springs Unit I WWTP  
Inv. No. 105513 LTF No 33760 USAS No. 501477-01  
08/24/09 at 4:00 pm

Representing Emerald Springs Unit I:  
Henry Melendez, PhD  
Jim Grimes

Representing ADEQ:  
Bob Manley  
Mohamed Hegazy

- Flow to the WWTP is extremely low, and likely to drop further when summer ends.
- 4-5 homes on-site with permanent residents. The rest are summer/vacation homes.
- Henry and Jim expect to have a great deal of difficulty meeting Nitrogen limits in the APP if it is issued before the low flow situation is resolved.
- The nearest AZ certified lab is a 300 mile round trip, making daily pathogen monitoring burdensome and potentially very expensive for the few permanent residents.
- One option is to re-connect to the neighboring Thompson RV Park. Relations between Dr. Melendez and Mr. Thompson have improved greatly over the past 5-6 years, and with tourism down, re-connecting may be mutually beneficial.
- Dr. Melendez is working on a project to build a solar power plant on a portion of the property. If the plant became operational, it would probably add about 10 additional houses with permanent residents (plant employees and their families).
- Dr. Melendez and Mr. Grimes would greatly prefer to leave the permitting process on hold until the housing market recovers or the solar plant is constructed, rather than invest the money and time required to start another APP application from the beginning.
- I (Bob) mentioned that there is a provision in A.A.C. by which the applicants could request a reduction in monitoring frequency (R18-9-B204(B)(4)(b)(iii)), if they institute continuous monitoring of an alternate indicator. After the teleconference, I emailed Dr. Melendez and Mr. Grimes a copy of the rule along with these notes.
- I told Dr. Melendez and Mr. Grimes that it was unlikely that ADEQ would allow monitoring at a rate less frequent than once per week, and that monthly monitoring seemed extremely unlikely to be approved.
- I also told Dr. Melendez and Mr. Grimes that I would speak with my Unit Supervisor, Asif Majeed, on August 25. Dr. Melendez will call me back in the afternoon on August 25 for an update.